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on Human Rights of Migrants
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INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Reply dated 16 February 1998 from the Permanent Mission of France

The Permanent Mission of France to the United Nations Office at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to its Note No. G/SO 212/28 (1), dated 2 December 1998, has the honour to transmit herewith the statistical data and other information regarding the situation of migrants and the measures taken to promote, protect and implement their human rights.

The Permanent Mission of France to the United Nations Office at Geneva takes this opportunity to convey to the Office of the High Commissioner for Human Rights the renewed assurances of its highest consideration.

Geneva, 16 February 1998

Questionnaire on the human rights of migrants

France considers that all persons enjoy the same fundamental rights, independent of their origin, and on this basis migrant workers benefit from the same regulations in labour law as their non-migrant counterparts. This belief goes hand in hand with the fight against clandestine work through the penalization of dishonest employers, since clandestine work, in our experience, most often leads to the exploitation of the individuals concerned, and to starvation wages.

Furthermore, the rise of racism in France over the past 10 or more years affects migrant workers disproportionately; they are the "scapegoats" at a time of economic crisis and rising unemployment. France is one of the States which have legislated the most to counter this trend. Nevertheless, the prospect of a global conference to combat racism by the year 2001 should encourage our country to contemplate additional measures to combat this phenomenon.

1. What are the latest figures or estimates for:

- Total population, including non-nationals, preferably by nationality of origin:

According to the latest indications by the National Institute for Statistics and Economic Studies (INSEE), metropolitan France had 58.7 million inhabitants on 1 January 1998.

According to the latest statistical data (INSEE Statistical Yearbook 1997, which is based on the last census (1990)), the number of foreigners was 3,596,602, which included:

614,207 Algerians

572,652 Moroccans

216,892 Spaniards

252,759 Italians

206,336 Tunisians

197,712 Turks

176,745 nationals of sub-Saharan African countries

112,915 nationals of Asian countries

597,515 nationals of other countries.

- Number of nationals abroad, preferably by country of residence:

1,671,426 French nationals live abroad. The United States, with 13.67 per cent of the French nationals living abroad, is the foremost destination for our compatriots, ahead of Great Britain (9.67 per cent), Germany (9.33 per cent) and Belgium (7.87 per cent). These estimates, which appear in detail in the annex, date back to 1996; the statistics for 1997 will only be available at the end of the first half of 1998.

- Non-nationals having authorization to work in the country:

At the end of 1995, 3,192,872 foreigners held a valid residence permit in France. It should however be noted that children under the age of 18, who are not obliged to hold a residence permit, are not included in these statistics. The figure includes 1.5 million Europeans, 1.35 million Africans, 71,230 Americans, 197,153 Asians, 2,412 persons from Oceania, and nearly 3,500 persons of unspecified nationality. Details of the countries of origin appear in the annex.

The number of foreign workers in active employment (for the year 1995, INSEE survey on employment, March 1995) stood at 1,112,228 (5.7 per cent of the French working population).

- Estimate of irregular migrants, including visa abusers, by country of origin:

The regularization of migrant workers who have entered French territory in an irregular manner is currently being reviewed, and the documents submitted by thousands of people to the prefectures are undergoing individual re-examination. Although it will surely not be possible for all the cases to receive a positive response in French law, priority will be given to the regularization of parents of French children, to the spouses of French nationals, and to those persons who have been resident for the longest period on the territory of the Republic.

In July 1997, one month after the circular on regularization was issued, around 36,000 requests for regularization were registered in the prefectures, including 31,500 in Paris and the Paris region.

Acquisition of French nationality

The data on acquisition of French nationality should be added, for a fuller picture of the phenomena concerned: 109,823 foreigners obtained French nationality in 1996, as against 92,410 in 1995.

2. What measures are being taken to strengthen the promotion, protection and implementation of the human rights of migrants?

The Working Group could usefully refer to the report of the National Consultative Commission on Human Rights on this point (the most recent one is for 1996).

Legal measures

- Constitutional guarantees and international commitments

The Constitution guarantees the equality before the law of all citizens without distinction of origin, race or religion. Moreover, the preamble to the Constitution refers to the Declaration of the Rights of Man and of the Citizen of 1789, article 1 of which proclaims that "men are born, and remain, free and equal in respect of their rights". It also refers to the preamble to the Constitution of 27 October 1946 according to which "every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights". This guarantee, of constitutional significance, means that any discrimination likely to undermine personal dignity is prohibited. Moreover, France ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 28 July 1971.

- Suppression of racial discrimination

The new Penal Code, which came into force on 1 March 1994, makes it a punishable offence to discriminate on the grounds of origin, sex, family situation, and membership or non-membership of a particular ethnic group, nation, race or religion. Article 225-1 of the new Penal Code punishes discriminatory behaviour towards natural persons, which was already condemned by the old Code, but also towards legal persons on the basis of their membership. Under article 225-2, discriminatory behaviour consists (a) in refusing to provide goods or services; (b) in hampering the normal exercise of any economic activity; (c) in refusing to employ, punishing or dismissing a person; (d) in attaching discriminatory conditions to the provision of goods or services; and (e) in attaching discriminatory conditions to an offer of employment. Moreover, article 432-7 of the Penal Code penalizes any person in whom public authority is vested, or responsible for a public service task, who is guilty of discrimination according to article 225-1, consisting in denying the enjoyment of a right granted in law, or in hampering the normal exercise of any economic activity.

- Suppression of incitement to racism and xenophobia

The law on freedom of the press, dated 29 July 1881, has been amended a number of times since 1972 in order to penalize incitement to racism and xenophobia. Its article 24, paragraph 5, punishes with one year of imprisonment and/or a 300,000-franc fine, anyone accused of publicly provoking hatred or violence towards a person or group of persons by reason of their origin or their membership or non-membership of a particular ethnic group, nation, race or religion. Moreover, the new Penal Code has established as a fourth-class infraction non-public slander or abuse of a racist or discriminatory nature (R.624-3 and R.624-4). These provisions result from the desire of the legislator to strengthen protection of human dignity by penalizing, for example, remarks made in an educational establishment or documents addressed to the members of an association. Moreover, under the law of 6 December 1993 on safety at sporting events, the introduction, carrying or exhibition in a sports arena during the holding or public broadcasting of a sporting event, of insignia, signs or symbols relodent of a racist or xenophobic ideology, constitute an offence.

Information and education

France is carrying out preventive action on racism within the framework of national education and the training of those persons most concerned with the suppression of racism (officers of the forces of law and order, magistrates).

The French Ministry of Education has supported numerous special activities in schools and has strengthened human rights education through the reintroduction of civic education and citizenship training. In the 1995 and 1996 school years this was implemented in primary, junior high and high schools, through programmes aimed at developing a spirit of tolerance and at teaching the basic notions of human dignity and responsibility in the face of attacks on human rights.

The training of magistrates, as of the police, includes a component on prevention of racism and xenophobia in all the subjects taught. Police training puts the emphasis on the ethical code of the national police, adopted in 1986, and generally on the rights and obligations, both ethical and legal, of the police towards the public, victims and suspects.

Moreover, the body of policies to facilitate the integration of foreigners contributes to combating racism, both by informing foreigners of their rights and duties and through the efforts made with the host society to prevent unjustified reactions of rejection.

Other measures, including bilateral and multilateral arrangements

- Within the framework of the Council of Europe:

France contributed to the recent action of the Council of Europe against racism, xenophobia, anti-Semitism and intolerance, which was initially mooted in October 1993 during the Vienna Summit of Heads of State and Government of the Member States of the Council of Europe, when the States adopted a declaration and plan of action. The latter led to the launch of a vast information campaign which was widely taken up in France, to the creation of the European Commission against Racism and Intolerance (ECRI) and to strengthening intergovernmental cooperation within the Council of Europe to combat racism and intolerance.

This action was confirmed during the second summit of Heads of State and Government of the Member States of the Council of Europe held on 10 and 11 October 1997 in Strasbourg, under French presidency. The plan of action which was adopted particularly envisaged a strengthening of ECRI activities and underlined the importance of close cooperation with the European Union.

- Within the European Union:

Following a joint Franco-German proposal, the Heads of State and Government of the Member States of the European Union, meeting as the European Council in Cannes on 25 and 26 July 1995, decided to set up a European Monitoring Centre on Racism and Xenophobia. This Monitoring Centre was created on 2 June 1997 by the Council of the European Union, and is

presided over by Mr. Jean Kahn, President of the French National Consultative Commission on Human Rights. Its function is to provide the Union and the Member States with reliable information, comparable at a European level, in order to facilitate action against racism.

Moreover, on 23 July 1996 the Council of the European Union adopted a resolution proclaiming 1997 the "European Year against Racism and Xenophobia". In France, related events are coordinated by the National Consultative Commission on Human Rights.

Finally, by virtue of article 13 of the new Treaty of Amsterdam, signed on 2 October 1997, the Council of the European Union will be competent to take the necessary measures to combat all discrimination, particularly racial discrimination.

3. Have there been manifestations (How many cases?) of racism, xenophobia and other forms of discrimination against migrants in your country and against your nationals in another country?

The following data, taken from the report of the National Consultative Committee on Human Rights, 1996, cover the facts on racism as a whole.

In 1996 nine violent acts of a racist nature (four persons injured, none killed), and three anti-Semitic acts, were registered in metropolitan France; these figures are down on 1990 (71 acts of racist violence). Three quarters of these violent acts were directed against persons of North African origin.

More insidious manifestations of racist and anti-Semitic violence (threats, graffiti, tracts, offensive behaviour, minor violence and other acts of intimidation) are more numerous: 284 acts were recorded in 1996, as against 505 in 1991. Almost half of these threats took place in the Ile-de-France region. Three quarters of these acts of intimidation concerned persons of North African origin, or their possessions.